

Remarks


Claims 1-19 are pending in the application, and the Examiner has subjected these claims to a restriction requirement.

Applicant respectfully traverses the restriction requirement. The Examiner has cited MPEP § 806.05(h) for supporting the statements that inventions I and II are related as products and process of use. To be distinct, it must be shown that the process for using the product as claimed can be practiced with another materially different product and/or the product as claimed can be used in a materially different process of using the product. The Examiner has stated that these inventions have acquired separate status in the art as shown by their different classifications. The Examiner has already conducted a search and issued an Office Action on the merits of the application dated December 11, 2002. Therefore, it is presumed the Examiner has already conducted a thorough search of the prior art as required under MPEP § 904.02. Although the claims were amended in the Amendment submitted on March 12, 2003, Applicant is still claiming a rope brake and a method of securing a safety device relative to a rope. Since a search has already been conducted with respect to these claims, the field of search is not different for these claims. Therefore, Applicant submits the restriction requirement is improper.

Applicant respectfully submits it is highly unusual for a restriction requirement to be made after a search has already been conducted and an Office Action on the merits of the application has already been issued with respect to the application. Therefore, it is respectfully requested that the Examiner withdraw the restriction requirement.

Should the Examiner maintain that a restriction requirement is proper and not withdraw the restriction requirement, Applicant elects invention II (claims 11-17 and 19) and amends claims 1-10 and 18 as recited in the above Amendments to the Claims for further examination.

Respectfully submitted,
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